# REGULATING EFTPOS IN RETAIL PAYMENTS SYSTEMS

The climate for reorienting the regulation of retail payments, including at the point of sale, is changing across countries, like Australia, as attitudes harden favouring the domestication of the global payment networks controlled by Visa and MasterCard (VMC).

There are predictably fashionable international coincidences in the reform of financial systems, including payment systems. The spectre of VMC controlling the domestic payments systems of the world is sensibly driving defensive initiatives, to protect national autonomy, while aiming to preserve and promote the benefits of linked national systems.

That is my general understanding of where retail payments regulation is headed internationally. Progress towards that objective is slowed by tactical battles and strategic ploys aimed at better aligning national interests with the commercial interests of the globally dominant VMC duopoly.

Australia's ePal is a relevant focal point in a local tactical battle but, in the broader context of eftpos arrangements, ePAL is best regarded as having peripheral relevance. ePAL has little prospect of remaining a major player with characteristics substantially different to the VMC schemes operated in Australia by the same interests that own ePAL: in short, why are these banks building a third network intended to be less profitable in competing with the two networks they already own?

*[The paper prepared by the RBA to guide this review of the designation of the regulatory framework for the eftpos system had a formal legal flavour. However necessary those legal formalities may be to the regulatory process, from my perspective, the PSB legislation effectively means that all elements of the payment system are 'permanently' designated.]*

**Definitions and Options**

For regulatory purposes, eftpos, in all its forms, should be subsumed within a broader framework embracing all electronic payments. It makes little sense to separate electronic transactions made with credit and debit cards 'present' at the point of sale from other 'card not present' payments (and transfers) irrespective that some transactions may be linked to card numbers in various guises, including BPay, as well as standard combinations of BSBs and account numbers. There is nothing special about point-of-sale transactions made electronically – cards present simplify the secure input of customer identifiers – as do 'card' numbers and account numbers, input when a card is not present, and bolstered by security protocols.

From that perspective it is something of a commercial contrivance that customers are given a raft of different account numbers when, for one bank and one customer, only one number is needed. Separate card-accounts are mainly commercial contrivances designed and intended to confuse the customers – and it works, bank customers are routinely disadvantaged as a consequence.

Some of the sense of eliminating these contrived numerical distinctions is illustrated by the established convenience of linking credit cards (and scheme debit cards) to customers' general transaction accounts to facilitate ATM and ePAL withdrawals and payments at point-of-sale.

Put simply, the regulatory preference should be for customers to have one primary account number for recording all transactions with the one bank. One practical barrier to this simplicity is the continued prominence of credit cards as a transaction medium – that prominence is itself a contrivance promoted and protected by appending exclusive functionalities, especially 'card not present' and 'contactless' payments (a line of credit could be attached to any customer account).

The continued prominence of VMC credit cards (and scheme debit cards) is a standing affront to national payments system regulators globally – as, similarly, is the continued existence of three-party, T&E, tax-dodge cards an affront to national income-tax authorities. All these card schemes remain an affront to the collective interests of wider national communities seemingly disregarded by banking regulators

In short, it would considerably simplify the regulatory challenge if the contrived practical relevance of separate credit card accounts (and scheme debit cards) were dealt with – preferably by a combination of proscribing any and all ad valorem interchange fees and developing secure protocols to allow 'card not present' transactions to be booked to any of a customer's accounts, including consolidated savings and debit card account facilities, which may have a line of credit attached. There may still be transaction cards with special identifying characteristics, and security chips, as may be necessary for them to be used across linked national networks, but back at the paying bank these cards would be linked to a customer's central transaction account.

To the extent it remains practically necessary to talk in terms of ePAL or any VMC variants of global card games, and BPay, that in itself is a measure of the extent of the regulatory (and operational) challenge to make such distinctions less relevant.

Implicit in that assessment is a preference for 'Option 2' in formalizing any transitory definition of Australia's eftpos system. Similarly implicit is a preference for immediately bringing the 'scheme debit' and credit-card facilities offered by VMC, within the fold of arrangements regulated under the general rubric of 'eftpos' in Australia. At best, ePAL is but one embryonic operator of a national eftpos system.

**The future cannot be ignored now**

Anyone taking even a casual interest in the trend of official commentary on needed innovations in Australia's retail payment systems would appreciate the emerging inclination to press for a centralized clearing and settlement hub. Such a hub is prerequisite to the development of retail EFT systems seamlessly exchanging payment instructions, themselves

compliant with international messaging standards, and allowing payees immediate access to money transferred securely between customers of participating institutions whose solvency, day to day and within limits, is guaranteed by national banking regulators.

Only slow-learning regulators would ever again trust the forked tongue of participating banks promising faithfully, also again, to voluntarily undermine the very arrangements which underpin the excessive profitability of the rorts inherent in de facto collusion paraded as joint-ventures and systemic cooperation. Repeated deception over decades makes it inexplicable that regulators have not grasped the repeated lesson.

On a positive note, it does now seem that the RBA has a better understanding of this message.

**Getting lost down false trails – like ePAL**

The case for taking a very broad brush to an Option 2 definition of 'eftpos' is only underscored by the likely eventual importance of bringing the domestic operations of VMC within the fold of arrangements regulated domestically. Not to do so will only compromise even more the sense of national autonomy that rightly belongs to sovereign governments.

The idea that the retail payments system of any nation could be dominated by the VMC duopoly is hardly worth contemplating – especially as the VMC players are embarked on a global strategy of displacing conventional currency in favour of anonymous 'cash cards' and conventional cards linked to identifiable customer accounts. However much we may look forward to the redundancy of notes and coin, the natural profits accruing from any substituted media of exchange best belongs in public purses managed on behalf of national communities.

One concern is that the push in Australia and Europe, for example, to have banks build some separate, competing eftpos system, like ePAL, is probably doomed to failure. Given that ePAL is mainly owned by the same banks that 'control' VMC locally, it is fanciful to expect that the terms on which a mature ePAL would operate would be any less an affront to the community than is the VMC duopoly now. The same assessment fairly applies to the practical prospects of the European SEPA initiative for a European scheme separate to VMC: pleasingly, however, the EU regulators have moved to restrain the cross-border profiteering of VMC.

To the extent this assessment might prove correct, it raises the question of national authorities moving to negotiate the domestication of VMC schemes now instead of persisting with a hollow threat, one most clearly seen to be hollow by VMC.

In essence, the prospect is an agreement for a national fence to be put around the local transactions of VMC which will be cleared through a local national hub, and separately switched internationally between linked national hubs. Implicit in this is a related agreement for the operations of VMC to be directly regulated in Australia: the basis of any such agreement is the local authority to regulate the operations of banks licensed to operate in Australia. There is a case for regulators cooperating internationally.

A key question here is about the continuing need for a separate national eftpos scheme, like ePAL. What is the sense of building a third, eftpos network when there are already two networks – the V and MC networks -- which could be operated on terms compatible with Australia's national interest?

Among other things Australia needs to manage any risk that the integrity of Australia's national retail payments network could be compromised by foreign interests – or that the exploitation of the community now embodied in VMC operations globally, will continue in Australia unrelieved.

These prospects bear on the appropriate definition of the eftpos system to be designated now.

**End note**

At the simplest level, it is clear that any eft systems operating in Australia should remain 'designated' and that the appropriate definition of those systems be comprehensively broad and not confined to some narrow entity like ePAL. The ongoing relevance of ePAL is not certain but it is certain that Australia needs to consolidate all eft payment and transfer systems in one coordinated national framework subject to direct, local regulatory authority.

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2 April 2012